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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/695,649	10/24/2000	Jerome Swartz	021XAXX	2064

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489 Fifth Avenue  
New York, NY 10017-6105

EXAMINER
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NGUYEN, CUONG H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 01/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/695,649

Applicant(s)

SWARTZ ET AL.

Examiner

CUONG H. NGUYEN

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 21 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) 15-20 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

1. This Office Action is the answer to the communication received on 10/21/2003.

### Status of the Claims

2. Claims 1- 14 are elected by Mr. Alan Israel (Reg. # 27,564) on 10/21/2003 for examination.

### Drawings

3. This application has been filed with 8 sheets of informal drawings which currently are acceptable for examining purposes.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office Action:

- (a) *A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.*

4. Claims 1, 9, 14 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Acampora et al. (US Pat. 4,789,983), in view of the Official Notice.

Acampora et al. teach a method of directing customers to suppliers, comprising steps of:

- a) positioning access nodes of a local area network (see **Acampora**, 1:11-20, 1:38-48), throughout the venue, one of the nodes being located in a common area of the venue (see **Acampora**, Fig.1, central node 30);

- b) detect a customer in area by enabling wireless communication (see **Acampora**, claim 2 – using a wireless communication link) between a portable terminal carried by a respective customer and a node (the examiner submits that it is old and well-known to detect an object within an area using wireless communication, (e.g., with motion sensing to trigger other circuits/components for security reasons; then activating an electronic circuits to displaying products corresponding to that detected location) ; that is analogous to a step of:
- c) delivering, supplier data identifying the suppliers by enabling wireless communication between the terminal and said node.

Acampora et al. do not disclose a specific application of electronic detecting a present of an object in a venue.

However, it is old and well-known to trigger specific circuits to provide necessary information using wireless communications.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. with the above Official Notice to suggest a specific application of electronic detecting a present of an object in a venue because this is merely a specific application of available detecting circuitry for security (i.e., a different intend of use).

B. As to claim 8: The rationales and references for rejection of claim 1 are incorporated.

Acampora et al. teaches a method of claim 1 wherein the wireless communication is performed at radio frequency.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al., and the above Official Notice to suggest that wherein the wireless communication is performed at radio frequency.

5. Claims 2-4, 10-11 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Acampora et al. (US Pat. 4,789,983), and further in view of the Official Notice.

A. As to claim 2: The rationales and references for rejection of claim 1 are incorporated.

Acampora et al. use wireless LAN access nodes for communications.

Acampora et al. do not disclose that sitting the access nodes at spaced-apart locations throughout the venue in which transactions are offered to potential customers. However, the examiner submits that above step is merely an old and well-known calculation while planning to place wireless nodes (based on the signal magnitudes, the applied frequencies, and the dimensions of the venue).

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. with McMillan, and the above Official Notice to suggest that sitting the access nodes at spaced-apart locations throughout the venue in which transactions are offered to potential customers; because this would provide good signals for wireless communications between nodes.

B. As to claims 3- 4, 10-11: The rationales and references for rejection of claim 2 are incorporated.

Acampora et al. do not disclose that delivering steps includes displaying on the terminal supplier/product data identifying the products/suppliers.

However, the examiner submits that it is old and well-known to match corresponding data with a product in a database of the store's server and then displaying that data.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. and the above Official Notice to suggest that specific data are supplier/product data because those actions were known to be done by a server's processor that matching data, retrieving it, and displaying it on a terminal via wireless communications.

6. Claims 5, 12 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Acampora et al. (US Pat. 4,789,983), in view of Peterson (US Pat. 6,324,522), and further in view of the Official Notice.

The rationales and references for rejection of claim 3 are incorporated.

Acampora et al. teaches a method of claim 1 having delivering steps.

However, the examiner submits that Peterson (US Pat. 6,324,522) discloses about selecting categories of the suppliers. "Detailed Description Text (39):

To conduct a product search 122, the user clicks on the "Products" button on the information network Main Mall page. The user will be presented with an alphabetical listing of all of the products that at least one vendor offers on the information network, as indicated at 124. The list indicates all possible products without restriction by region. When a desired product category is selected for

which no vendor exists within a region selected in step 120, in a preferred embodiment, an appropriate message is displayed; the display may alternatively display a blank list to indicate that no vendors of the selected product category exist within the region selected in step 120. When a list is displayed, the user can scroll down the list until the user locates the product the user is looking for. To assist the user to move quickly to the location of the product on the alphabetical list of products, the user is also presented with a graphical listing of the alphabet. By clicking on the alphabet letter that the product name begins with, the user is moved to the beginning of the portion of the alphabetical list of products whose names begin with the selected letter. For example, to locate "Relays", the user clicks on the letter "R" in the alphabetical list. The user is immediately moved to all products that start with the letter "R".

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. with Peterson, and the Official Notice to suggest about selecting categories of the suppliers prior to displaying the supplier data because this would be done by a microprocessor before outputting these data.

7. Claims 7, 13 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Acampora et al. (US Pat. 4,789,983), in view of **Ogasawara** (US Pat. 6,513,015), and further in view of the Official Notice.

The rationales and references for rejection of claim 6 are incorporated.

Acampora et al. do not disclose about recommending a product based on a user's shopping profile.

However, the examiner submits **Ogasawara** (US Pat. 6,513,015) discloses that missing idea: "Brief Summary Text (23):

In addition to promoting customer recognition and identification, the customer ID card is further useful in assisting each customer in making purchase transactions. The customer ID card is advantageously used in connection with a customer assistance or kiosk terminal which is able to develop and display various personalized assistance recommendations based on an analysis of demographic information, transaction history, and customer profile data read from the customer's ID card, or combination of an ID card and customer data maintained in a database in a store server or host computer. Additionally, each customer's shopping history and personal profile data is processed by an establishment's in-store terminals to thereby develop promotional item recommendations based on a customer's most recent transactions, and to make recommendations for particular coordinated items that might match an item recently purchased. In addition, based on each customer's data record, the commercial establishment is able to determine that a particular customer has not made any purchases of items falling within particular categories and is therefore able to generate one-on-one marketing programs specifically directed to that customer in order to remedy the deficiency."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. with Ogasawara, and the above Official Notice to suggest that recommending a product based on a user's shopping profile because of a motivation to increase sale volumes of a store.



8. Claim 6 is rejected under 35 U.S.C. § 103(a) as being unpatentable over Acampora et al. (US Pat. 4,789,983), in view of O'Hagan et al., (US Pat. 6,314,406), and further in view of the Official Notice.

The rationales and references for rejection of claim 2 are incorporated.

Acampora et al., do not disclose that "recommending a product to the respective user based on the proximity of the respective user to the product being recommended".

However, the examiner submits O'Hagan et al., (US Pat. 6,314,406) teach that idea "Detailed Description Text (123):

Additionally, the CIT 14 can display customized web pages made by manufacturer's of the products on the customer's shopping list 984. Also, as the customer is walking along an aisle, for example, a proximity sensor detecting the presence of the CIT 14 could trigger the display 52 to show a web page relating to the sale of a particular product within the vicinity of the customer."

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Acampora et al. with O'Hagan et al., and the Official Notice to suggest that "recommending a product to the respective user based on the proximity of the respective user to the product being recommended." Because this would increase the attention of a buyer to a particular product in an attempt to increase sale volume of a store.

### **Conclusion**

9. Claims 1-14 are not patentable.

10. The cited prior art are pertinent to claimed subject matter of this pending application:

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to CUONG H. NGUYEN whose telephone number is 703-305-4553. The examiner can normally be reached on 7 am - 330 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, VINCENT A. MILLIN can be reached on 703-308-1065. The fax phone number for the organization where this application or proceeding is assigned is 703-305-7687.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

*Cuong H. Nguyen*

CUONG H. NGUYEN  
Primary Examiner  
Art Unit 3625